CAA COMMISSARIAT AUX ASSURANCES

Regulation of the Commissariat aux Assurances No. 20/03 of 30 July 2020 relating to the fight against money laundering and terrorist financing

(Mémorial - A No. 696 of 20 August 2020)

The Directorate of the Commissariat aux Assurances,

Having regard to Article 108bis of the Constitution;

Having regard to the Law of 7 December 2015 on the insurance sector, as amended, in particular point (c) of Article 2(1) thereof;

Having regard to the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended, and the Grand-Ducal Regulation of 1 February 2010, as amended, supplementing certain provisions of that Law;

Having regard to the opinion of the Advisory Committee on Prudential Regulation;

Decides as follows:

Chapter 1 - General provisions

Article 1. - Definitions and Abbreviations

(1) For the purposes of the present regulation (hereinafter referred to as the "Regulation"), the following definitions shall apply:

a) **"beneficiary"**: any natural or legal person, any legal arrangement or any category of persons in whose favour benefits arising from the insurance or capital redemption contract are stipulated. This person may be different from the person of the 'beneficial owner' within the meaning of Article 1, point 7) of the Law.

b) "**CAA**": Commissariat aux Assurances.

c) "**Compliance Officer**": the person responsible for monitoring compliance with the professional obligations set forth in Article 4(1), second subparagraph, point (a) of the Law.

d) "**FIU**": the financial intelligence unit under the administrative supervision of the *Procureur Général d'État* (State Attorney General).

e) **"Directive (EU) 2015/849"**: the Directive (EU) 2015/849 of the European Parliament and of the Council of 20 May 2015 on the prevention of the use of the financial system for the purpose of money laundering or terrorist financing, amending Regulation (EU) No 648/2012 of the European Parliament and of the Council and repealing Directive 2005/60/EC of the European Parliament and of the Council and Commission Directive 2006/70/EC, as amended, and the acts adopted for its implementation.

f) "**management**": the persons who have a real influence on the overall conduct of the professional's activities and who are at the level of the professional's

management bodies, including the board of directors, the executive committee, the board of managers and, insofar as they are not included in these bodies, the effective management.

g) **"effective management**": the person(s) responsible for the day-to-day management of the professional, including authorised managers and authorised agents of the branches established in Luxembourg.

h) "**domicile**": the place of the domicile of the natural person concerned as well as his principal residence, if the latter is different from his domicile. The words "residence" and "domicile" have the same meaning under the Regulation.

i) **"FATF**: the Financial Action Task Force.

j) **"AML/CFT**: the fight against money laundering and terrorist financing.

k) **"Law**": the Law of 12 November 2004 on the fight against money laundering and terrorist financing, as amended.

l) **"law on the implementation of restrictive measures in financial matters**": the Law of 27 October 2010 relating to the implementation of the United Nations Security Council Resolutions and acts adopted by the European Union containing prohibitions and restrictive measures in financial matters against certain persons, entities and groups in the context of the fight against terrorist financing or any law repealing and replacing that law with respect to the implementation of restrictive measures in financial matters, including the measures taken for its execution.

m) "**law on the insurance sector**" the law of 7 December 2015 on the insurance sector, as amended, and its implementing regulations.

n) "**proxy**" any person acting or purporting to act in the name and on behalf of the customer.

o) **"senior management** " an officer with sufficient knowledge of the professional's money laundering and terrorist financing risk exposure and sufficient seniority to take decisions affecting its risk exposure. For the purposes of the Regulation, only officers at the level of the management or the effective management are eligible.

p) "**professional obligations**": the obligations upon professionals with regard to AML/CFT.

q) "**staff**": all natural persons contributing to the activity of professionals referred to in Article 2(1) of the Regulation, as employees or self-employed.

r) **"professionals**": the persons referred to in Article 2(1) of the Regulation.

s) **"Grand-Ducal Regulation**": the Grand-Ducal Regulation of 1st February 2010, as amended, supplementing certain provisions of the Law.

t) **"person responsible for compliance with the professional obligations**": the member of the management or of the effective management responsible for compliance with the professional obligations relating to the fight against money laundering and terrorist financing and referred to for the purposes of the Regulation as the "**Responsible for Compliance**".

(2) Terms not otherwise defined in this article shall be deemed to have the meaning assigned to them, where applicable, in the Law, the Grand-Ducal Regulation or the law on the insurance sector.

Article 2. - Scope

(1) The provisions of the Regulation shall apply to professionals referred to in Article 2 of the Law and which are subject to the supervision of the CAA, including branches of foreign professionals notified to the CAA as well as professionals established under the laws of

foreign countries notified to the CAA providing services in Luxembourg without establishing a branch.

With regards to insurance undertakings, reinsurance undertakings and intermediaries, the Regulation shall apply upon the granting of the authorisation to conduct the life insurance classes listed in Annex II to the law on the insurance sector and/or the non-life insurance classes 14 (credit) and 15 (suretyship) listed in Annex I to the law on the insurance sector or upon receipt of the notification of an activity under the freedom of establishment or freedom to provide services regimes in relation the said classes.

With regards to pension funds, the Regulation is applicable as soon as they have been granted with an authorisation to carry out the activities listed in Annex IV of the law on the insurance sector.

The Regulation applies to the professionals of the insurance sector for their activities falling under the supervision of the CAA.

(2) Without prejudice to the preceding paragraph, the provisions of articles 31 and 37(2) and (3) of the Regulation concerning the States, natural and legal persons, entities and groups subject to restrictive measures in financial matters apply to all natural and legal persons subject to the supervision of the CAA, including those falling under the Law.

(3) The Regulation also applies in the situations referred to in Article 4-1(3) of the Law, relating to the application of at least equivalent measures in branches and majority-owned subsidiaries located abroad.

(4) With regards to co-insurance, the obligations set out by the Law are incumbent only upon the leading insurance undertaking, provided that its central administration is located in Luxembourg, in a Member State or in a third country imposing obligations equivalent to those provided for by the Law or Directive (EU) 2015/849. If the leading insurance undertaking does not have its central administration in Luxembourg, in a Member State or in a third country imposing obligations equivalent to those provided for by the Law or Directive (EU) 2015/849, the obligations set out in the Law are incumbent upon the co-insurer(s) established in Luxembourg.

Chapter 2 - Risk-based approach

Section 1 - Risk Identification, Assessment and Understanding

Article 3. - Overall assessment at professional level

(1) Pursuant to Article 2-2 of the Law, professionals shall carry out an overall assessment of the money laundering and terrorist financing risks to which they are exposed. To this end, they shall consider all the relevant risk factors before determining the overall risk level and the level and type of appropriate measures to be taken in order to manage and mitigate these risks.

The nature and extent of this risk assessment shall be adapted to the nature and volume of their business activity.

(2) For the purposes of the overall risk assessment, professionals shall also refer to various sources, including in particular:

- the national risk assessment of money laundering and terrorist financing;
- the supranational report from the European Commission on the assessment of the risk of money laundering and terrorist financing;
- guidance issued by the European Supervisory Authorities;
- the relevant rules issued by the CAA.

(3) Professionals shall review and update the overall risk assessment at least annually and shall have appropriate mechanisms in place to communicate information on their risk assessment to the CAA in the forms and manner determined by the CAA.

(4) Professionals shall also identify, assess and understand the money laundering and terrorist financing risks that may result from (i) the development of new products and business practices, including new distribution mechanisms, and (ii) the use of new or developing technologies in connection with new or existing products. This risk assessment shall take place prior to the launch or use of such new products, practices and technologies. Professionals shall take appropriate measures to manage and mitigate these risks.

Article 4. - Individual assessment at customer level

(1) For the purposes of Article 3(2a) of the Law, professionals shall classify their customers according to different risk levels in relation to money laundering and terrorist financing.

Besides the cases where the risk level is to be considered high under the Law, the Grand-Ducal Regulation or the Regulation, this level is assessed according to a consistent combination of risk factors defined by each professional in relation to the activity carried out and which are inherent to the following risk categories:

- type of customers (customers/insurance policyholders or subscribers, proxies and beneficial owners);
- countries or geographical areas;
- products, services;
- operations, transactions; or
- distribution channels.

In accordance with Article 3(2b), third subparagraph of the Law, professionals shall take into account the beneficiary of a life insurance contract as a relevant risk factor when determining whether enhanced due diligence measures are applicable.

(2) When assessing the risk level, professionals shall take into account the risk variables related to the above-mentioned risk categories. These variables, taken individually or in combination, may increase or decrease the potential risk and, therefore, have an impact on the appropriate level of due diligence measures to be implemented. These variables include, in addition to the variables set out in Annex II to the Law:

- the amount of premiums paid or to be paid by a customer;
- the means by which the premiums are paid;
- the features, including options and tax aspects, of the insurance contract;
- the nature of the assets underlying a unit-linked insurance contract.

(3) In order to determine whether the professional is in a situation that presents a higher risk and safe for the cases explicitly provided for in Article 3-2 of the Law or the implementing measures, the professional shall refer to the non-exhaustive list of risk factors set out in Annex IV to the Law. The list in Annex IV is a *de minimis* list of potentially higher risk factors to be taken into consideration by the professional in the assessment of the risks of money laundering and terrorist financing. The professional shall also take into account any other risk factor deemed useful to determine whether the business relationship requires the application of enhanced due diligence measures.

(4) In order to determine whether the professional is in a situation that presents a lower risk, the professional shall refer to the non-exhaustive list of risk factors set out in Annex III to the Law. The list in Annex III is a *de minimis* list of potentially lower risk factors to which the professional may apply simplified due diligence measures if the professional can justify it. The professional may also take into account other risk factors deemed relevant to determine whether simplified due diligence measures can be applied to the business relationship. The professional shall keep the evidence available for the competent authorities and shall be able to demonstrate the relevance of those risk factors.

(5) The assessment of the risk level shall not under any circumstances allow derogation from the application of enhanced due diligence measures in the cases provided for by the Law or the Grand-Ducal Regulation.

(6) The assessment of the risk level to be assigned to a customer shall be carried out prior to the acceptance of the customer by the professional. During the monitoring of the business relationship, the professional shall keep account of the development of the risks and adapt its assessment according to any significant change affecting them or any new risk.

(7) Professionals shall have appropriate mechanisms to communicate information on their risk assessment to the CAA, under the forms and conditions determined by the latter.

(8) Without prejudice to the obligation referred to in paragraph 7, professionals shall be organised in such a way to be able to fill in correctly and completely any quantitative or qualitative questionnaire or other document or request from the CAA relating to the collection of information in relation to the fight against money laundering and terrorist financing and to be able to submit them to the CAA through the channels determined by the latter.

Section 2 - Risk Management and Mitigation

Article 5. - General approach

(1) Professionals shall have policies, controls and procedures in place to enable them to effectively manage and mitigate the money laundering and terrorist financing risks to which they are exposed. These policies, controls and procedures shall be approved by the management. The policies and procedures as approved by the management shall be communicated to staff members by the Compliance Officer in accordance with their level of involvement in AML/CFT. The Compliance Officer also ensures that staff members are made aware of the policies and procedures that affect them in the manner that the Compliance Officer considers appropriate.

(2) In accordance with Article 3(2a) of the Law, professionals shall set the extent of the due diligence measures laid down in Article 3(2) of the Law according to the risk level assigned to each customer in accordance with Section 1 of this Chapter.

(3) The adaptation of the extent of the due diligence measures to the risk level shall take place during the identification and identity verification period within the meaning of Article 3(2), first subparagraph, points (a) to (c) of the Law and shall be continued thereafter as part of ongoing due diligence within the meaning of Article 3(2), first subparagraph, point (d) of the Law.

Article 6. - Equivalence of the obligations imposed by a Member State or a third country

(1) For the purpose of applying Articles 3-1 and 3-3 of the Law and Articles 3 and 4 of the Regulation, it is for each professional to assess whether a Member State or a third country imposes obligations equivalent to those laid down in the Law or in Directive (EU) 2015/849. The reasons leading to the conclusion that a Member State or a third country imposes equivalent obligations shall be documented at the time the decision is taken and shall be based on relevant and up-to-date information. The obligations imposed by a Member State are presumed to be equivalent, except where relevant information points to the fact that this assumption cannot be upheld. The conclusion that the obligations are equivalent shall be regularly reviewed, in particular when new relevant information about the country concerned is available.

(2) The conclusion that a Member State or a third country imposes obligations equivalent to those laid down in the Law or Directive (EU) 2015/849 does not relieve the professional from carrying out a risk assessment in accordance with this Chapter when accepting the

customer and, in particular, does not exempt the professional from the obligation to apply enhanced due diligence measures in situations which by their nature may present a high risk of money laundering or terrorist financing.

Chapter 3 - Customer Due Diligence

Section 1 - Acceptance of a new customer

Article 7. - Customer acceptance policy

Professionals shall decide on and put in place a customer acceptance policy which is adapted to the activities they carry out, so that the entry into business relationship with customers may be submitted to a prior risk assessment as provided for in Section 1 of Chapter 2 of the Regulation.

Article 8. - Customer acceptance procedure

(1) Without prejudice to the obligations laid down in Article 3-2(2), (3) and (4) of the Law and in Article 3(1) and (4) of the Grand-Ducal Regulation and in the Regulation, the acceptance of a new customer shall be submitted for authorisation to a professional body specifically authorised for this purpose by providing for an adequate hierarchical decision-making level, or failing this, to the Compliance Officer. The authorisation shall be in writing or by means of a tool configured according to the procedures put in place by the professional in such a way that the intervention of the various natural persons is clearly traceable.

The acceptance of a new customer presenting a low risk of money laundering and terrorist financing, following the risk-based approach as put in place by the professional, may be carried out on the basis of an automated acceptance process which does not require the intervention of a natural person for the professional's side. This process shall be previously authorised by the CAA, shall be in line with the AML/CFT policies and procedures of the professional and shall be reviewed regularly by the professional to ensure that this process cannot be misused for money laundering and terrorist financing purposes.

(2) Where the size and nature of the business permits and in the absence of the appointment of a Compliance Officer and of the setting up of a specific body for customer acceptance, the Responsible for Compliance shall record the risk level and the customer's acceptance in the customer's file.

Article 9. - Additional measures for the acceptance of potentially high-risk customers

The customer acceptance policy shall provide for a specific examination for the acceptance of customers likely to represent a high risk of money laundering or terrorist financing and shall provide for the intervention of the Compliance Officer and the senior management.

Article 10. - Documentation of any contact

(1) The customer acceptance policy shall require the documentation of all contact, no matter in which form, and shall notably provide for a form adapted to the nature of the contact and the business relationship.

(2) The customer acceptance policy shall also provide for procedures to be followed in the event of a suspicion or in the event of reasonable grounds to suspect money laundering, an associated predicate offence or terrorist financing in case the contact with a potential customer fails. The reasons for a customer or professional to refuse to enter into a business relationship or to carry out an operation shall be documented and kept in accordance with the procedures provided for in Article 25 of the Regulation, even if the professional's

refusal does not ensue from the observation of a money laundering or terrorist financing indication.

Section 2 - Entering into a business relationship

Article 11. - Time of entry into business relationship

The business relationship referred to in Article 1(13) of the Law shall be established in the insurance sector:

- for insurance undertakings and pension funds at the time a decision is made on an insurance application signed by the customer.
- for reinsurance undertakings at the time of the decision on the acceptance of risks ceded in reinsurance.
- for insurance or reinsurance intermediaries at the time they perform, on behalf of the customer, pre-contractual acts in connection with the conclusion of an insurance contract.
- for the professionals of the insurance sector ("PSA") at the time when a decision on the conclusion of a service agreement is taken.

Article 12. - Portfolio transfer

Prior to any transfer of an insurance or reinsurance portfolio in the sense of Article 66 of the law on the insurance sector, the professional to whom the portfolio is to be transferred is required to carry out an analysis of the AML/CFT policies and procedures put in place by the transferor and related internal or external audit reports for the last three years in order to enable the professional to ensure that the AML/CFT policies and procedures include customer due diligence measures compliant with those required by the Law or the Directive (EU) 2015/49.

Section 3 - Measures for the identification and verification of the identity of customers

Article 13. - Definition of the term "customer"

For the purposes of the Regulation, the term "customers" refers to the policyholders or subscribers of an insurance contract (natural persons, legal persons or other legal arrangements).

As regards reinsurance operations, the term "customers" refers to ceding or retro-ceding undertakings.

For the professionals of the insurance sector, the term "customers" refers to the persons having signed the service agreement and to whom the services are provided.

Article 14. - Identification of the customers

For the purposes of the identification of customers in accordance with Article 3(2), first subparagraph, point (a) and second subparagraph of the Law, professionals shall gather and register at least the following information:

1. as regards customers who are natural persons:
   - surname(s) and first name(s);
   - place and date of birth;
   - nationality(ies);
   - full postal address of the customer's domicile;

- where applicable, the official national identification number.

2. as regards customers which are legal persons or legal arrangements:
   - legal name;
   - legal form;
   - address of the registered office and, if different, the address of one of the principal places of business;
   - where applicable, the official national identification number;
   - the names of the directors or managers and, where applicable, of any other persons exercising management functions and who are involved in the business relationship with the professional.

Article 15. - Customers' declaration

(1) At the time of the identification of the customers, and for the purposes of the obligations to identify and to verify the beneficial owner provided for in Section 6 of this Chapter, professionals shall determine if the customers act on their own account or, where appropriate, for the account of other persons.

Customers are required to sign an explicit declaration in that respect and shall undertake to communicate, without delay, any subsequent changes to the professional. Professionals shall ensure the credibility of this declaration.

(2) When the customer is not acting on its own account, the professional shall obtain from the customer the necessary information concerning the identity of the person for whom the customer is acting.

Article 16. - Verification of the identity of customers who are natural persons

(1) The verification of the identity, within the meaning of Article 3(2), first subparagraph, point (a) of the Law, of customers who are natural persons shall be made at least with one valid official identification document issued by a public authority and bearing the customer's signature and photo, such as the customer's passport or identity card. If the customer is nevertheless materially unable to provide an identity card or passport, the professional shall obtain his residence card or driving licence or any other similar document.

(2) Professionals may use the means of electronic identification, including the relevant trust services provided for in Regulation (EU) No 910/2014 of the European Parliament and of the Council of 23 July 2014 on electronic identification and relevant trust services for electronic transactions in the internal market, or any other secure remote or electronic identification process, regulated, recognised, approved or accepted by the relevant national authorities, to comply with their customer due diligence requirements referred to in Article 3(2), first subparagraph, point (a), of the Law.

(3) According to their risk assessment, without prejudice to other measures to be taken in case of enhanced due diligence, professionals shall take additional verification measures, such as notably the certification of identification documents by a competent authority, the verification of the address indicated by the customer through the proof of domicile or by contacting the customer, among others, per registered letter with acknowledgement of receipt.

Article 17. - Verification of the identity of customers which are legal persons

(1) Pursuant to Article 3(2), first subparagraph, point (a) and second subparagraph of the Law, the verification of the identity of customers which are legal persons or other legal arrangements shall be made at least by means of the following documents, which shall be kept in the manner provided for by article 25 of the Regulation:

- the latest coordinated or up-to-date articles of association (or equivalent incorporation document);
- a recent and up-to-date extract from the companies register (or equivalent supporting document).

Without prejudice to the above, where a period of more than three months elapses between the entry into the business relationship and the conclusion of an insurance contract, the professional shall ensure that the documents are still up-to-date at the time of the conclusion of the contract.

(2) According to their risk assessment, without prejudice to other measures to be taken in case of enhanced due diligence, professionals shall take additional verification measures, such as:

- an examination of the latest annual accounts and management report, where applicable, certified by a *réviseur d'entreprises agréé* (approved statutory auditor) (or equivalent);
- the verification, after consulting the companies register or any other source of professional data, that the company was not, or is not subject to, a dissolution, deregistration, bankruptcy or liquidation;
- the verification of information collected from independent and reliable sources, such as, among others, public and private databases;
- a visit to the company, if possible, or contact with the company, among others, through registered letter with acknowledgement of receipt.

Section 4 - Measures for the identification of the insured persons

Article 18. - Identification of the insured persons

(1) For the purposes of identifying the insured persons, if the latter are not the customers, professionals shall collect and record at least the following information:

- surname(s) and first name(s);
- place and date of birth;
- nationality(ies);
- full postal address of the domicile;
- where applicable, the official national identification number.

With regard to professionals operating in non-life insurance branches 14 (credit) and 15 (suretyship) referred to in annex I to the law on the insurance sector, if the insured persons are legal persons or other legal arrangements, professionals shall gather and register at least the following information if said insured persons are not the customers:

- legal name;
- legal form;
- address of the registered office;
- where applicable, the official national identification number.

In the context of group life insurance contracts, where the insured persons have active powers over the contracts, these persons are to be considered as customers and the professional shall apply the conditions of Articles 14 to 17 of this Chapter to these persons.

(2) In addition to the identification measures, professionals shall check the identification data of the insured persons against the persons subject to restrictive financial measures pursuant to the provisions of Article 31 of the Regulation.

Section 5 - Measures for the identification and verification of the identity of customers' proxies

Article 19. - Identification and verification of the identity of the proxies

(1) The identification and verification measures of the identity of the customers' proxies in accordance with Article 3(2), second subparagraph, point (a) of the Law are subject to the provisions of Articles 14 to 17 of this Chapter, without prejudice to the enhanced or simplified customer due diligence measures.

(2) Professionals shall also take note of the representation powers of the persons acting on behalf of the customers and verify them through evidencing documents to be kept in the manner referred to in Article 25 of the Regulation.

(3) This Article applies in particular to the following persons:

- legal representatives of customers who are incapable natural persons;
- natural or legal persons authorised to act in the name and on behalf of the customers by virtue of a mandate;
- persons authorised to represent customers which are legal persons or legal arrangements in their relations with the professional.

Section 6 - Measures for the identification and verification of the identity of the beneficial owners

Article 20. - Identification of the beneficial owners

The identification of the beneficial owners determined pursuant to Article 1(7) of the Law is made in accordance with Article 3(2), first subparagraph, point (b) and second subparagraph of the Law and concern their:

- surname(s) and, first name(s);
- nationality(ies);
- date and place of birth;
- full postal address of the domicile;
- where applicable, the official national identification number.

In case of *fiducies*, trusts or similar legal arrangements, in the context of the identification of the beneficial owners referred to in Article 1(7), point (b) of the Law, if the beneficiaries of said *fiducies*, trusts or similar legal arrangements are designated by particular characteristics or category, the professional shall collect sufficient information concerning said beneficiaries in order to be able to identify them at the time of the payout or of the exercise of the acquired rights.

In the case of assignment, in whole or in part, of the life or other investment-related insurance to a third party, professionals aware of the assignment shall identify the beneficial owner at the time of the assignment to the natural or legal person or legal arrangement receiving for its own benefit the value of the policy assigned.

Article 21. - Verification of the identity of the beneficial owners

(1) The verification of these data shall be made, notably, using information obtained from the customer, from the central registers within the meaning of Article 30(3) and Article 31(3a) of Directive (EU) 2015/849 or from any other independent and reliable source available. The sole use of central registers does not constitute a sufficient means of complying with the due diligence requirements. The professional shall take all reasonable measures in order to ensure that the real identity of the beneficial owner is known. The reasonable nature of these measures shall be determined, notably, according to the level of money laundering or terrorist financing risk that the professional considers to be linked to the customer's profile or to the nature of the business relationship or operation contemplated by the customer.

(2) Where, despite these measures, the professional has a doubt as to the real identity of the beneficial owner, and where it is unable to remove this doubt, the professional shall refuse to enter into the business relationship or carry out the transaction contemplated by the customer and, if there is a suspicion of money laundering, of an associated underlying offence or of terrorist financing, the professional shall submit a report in accordance with Article 5(1) and (1a) of the Law.

Article 22. - Further verifications in relation to the beneficial owners

(1) The beneficial owner within the meaning of Article 1(7) of the Law means any natural person who ultimately, directly or indirectly, owns or controls, in fact or in law, the customer or any natural person for whom a transaction is executed or an activity is carried out.

In the case of companies, the shareholding thresholds as set out in Article 1(7), point (a) of the Law are merely signs of direct or indirect ownership. The professional shall adjust the measures for the identification and verification of the identity in respect of the beneficial owner(s) depending on the risk level related to money laundering or terrorist financing that the professional considers to be associated with the customer's profile.

(2) The verification of the identity of the beneficial owner(s) of a legal person or legal arrangement includes the obligation to understand the ownership and control structure of the customer. The nature and extent of the information and documents to be collected and analysed by the professional shall depend on the prior risk assessment as provided in Article 7 of the Regulation and may vary during the business relationship.

Section 7 - Due diligence measures relating to beneficiaries

Article 23. - Identification and verification of the beneficiaries' identity

(1) Professionals shall apply the following due diligence measures in respect of the beneficiaries of life insurance contracts and of other investment-related insurance policies as soon as the beneficiaries are identified or designated:

a) in case of beneficiaries that are natural or legal persons or legal arrangement identified by name - record their surname(s), name(s), nationality(ies), date and place of birth and full postal address of domicile or, where applicable, the legal name and address of the registered office;
b) in case of beneficiaries that are designated by their characteristics, by category or by other means - obtain sufficient information on these beneficiaries so that professionals are able to establish the identity of the beneficiary at the time of the payout.

The verification of the identity of the beneficiaries shall take place at the latest at the time of the payout and, in any case, before the funds are disbursed, in accordance with the procedures described in Articles 16 and 17 of the Regulation.

If, in accordance with Article 3(2b), third subparagraph of the Law and Article 4(1) of the Regulation, the professional has established that the beneficiary of a life insurance contract, which is a legal person or a legal arrangement, presents a higher risk, the enhanced due diligence measures shall include reasonable measures to identify and verify the identity of the beneficial owner of the beneficiary of the life insurance contract at the time of payout and, in any event, before the funds are disbursed.

(2) Information collected under the preceding paragraph shall be retained and kept up to date in accordance with the provisions of the Law and the Regulation.

(3) At the latest at the time of the payout and, in any case, before the funds are disbursed, professionals shall check the data identifying the beneficiaries against the persons subject to restrictive financial measures in accordance with the provisions of Article 31 of the Regulation.

Section 8 - Assessing, understanding and obtaining information on the purpose and the intended nature of the business relationship

Article 24. - Assessing, understanding and obtaining information on the purpose and the intended nature of the business relationship

The professionals' obligation to know their customer includes the obligation to gather and register, at the time of identification of the customer, information allowing to determine the source of the funds that pass through the product, including the geographical and economic source of the premiums, regardless of whether the premiums are paid in cash or in kind, and allowing to determine the purpose of the envisaged business relationship on the part of the customer in accordance with Article 3(2), first subparagraph, point (c) of the Law. This information shall enable the professional to exercise an efficient ongoing customer due diligence as referred to in Section 11 of this Chapter.

Depending on the customer's risk profile and without prejudice to the enhanced due diligence measures referred to in Section 10 of this Chapter, professionals shall take appropriate measures to obtain documentary evidence concerning, in particular, the nature of the customer's activities, the source of customer's income and/or savings, the source and composition of his wealth and his tax residence.

In case a natural or legal person, that is a third party to the contract, pays the insurance premium, the professional shall identify and verify the identity of that person in accordance with Articles 14 to 17 of the Regulation and shall understand the reasons for said payment.

Section 9 - Record-keeping requirements of documents, data and information

Article 25. - Record-keeping requirements of documents, data and information

(1) The record-keeping requirements provided for in Article 3(6), first subparagraph, point (a) and third subparagraph of the Law and Article 1(5) of the Grand-Ducal Regulation and in the Regulation, apply to all documents and information obtained under the customer due diligence measures which are necessary to comply with the customer due diligence requirements provided for in Articles 3 to 3-3 of the Law. This includes the results of any performed analysis, as well as information and documents relating to the measures that have been taken by professionals to identify beneficial owners.

(2) The record-keeping requirements of documents, data or information relating to business relationships and transactions, as provided for in Article 3(6), first subparagraph, point (b) of the Law and in Article 1(5) of the Grand-Ducal Regulation and in the Regulation, also includes the obligation to keep the written reports sent to the Compliance Officer in accordance with Article 37(4) of the Regulation, as well as the analyses of the transactions and facts included in these reports that the Compliance Officer drew up and the decisions taken accordingly and the results of any other performed analysis.

(3) The record-keeping of the documents, pursuant to Article 3(6) of the Law and Article 1(5) of the Grand-Ducal Regulation, may be carried out on any archiving medium, provided that the documents meet the conditions for use as evidence in the framework of an investigation or criminal proceedings or analysis on money laundering or terrorist financing by the AML/CFT competent authorities.

Section 10 - Simplified or enhanced customer due diligence

Article 26. - Simplified customer due diligence measures

The simplified due diligence measures that may be applied by professionals in respect of the business relationship in cases of justified low risk shall include in particular:

- for customers subject to a mandatory authorisation or approval regime, evidence of such authorization or approval is sufficient to satisfy the customer identity verification measures set out in Article 17 of the Regulation.

- for proxies of a regulated financial institution and involved in the business relationship, instead of requesting full identification of these persons, obtaining a letter confirming that the financial institution has applied due diligence measures to these persons and that it regularly monitors these persons against the lists of financial sanctions.
- the presumption that a payment debited from an account held in the customer's name with a credit institution or a financial institution regulated in a country of the European Economic Area meets the requirements set out in Article 3(2), first subparagraph, points (a) and (b) of the Law.

Article 26a. - Enhanced customer due diligence measures

Without prejudice to the cases where enhanced due diligence measures are specifically prescribed by the Law or the Grand-Ducal Regulation, the enhanced due diligence measures that could be applied for higher-risk business relationships include among others :

- obtaining additional information on the customer and updating more regularly the identification data of customer and beneficial owner;
- obtaining information on the reasons for intended operations, in particular in the event of total or partial surrender of the insurance contract;
- obtaining the approval of the senior management for establishing or continuing the business relationship;
- acceptance of the deposit of bearer capitalisation contracts with the insurance undertaking which has issued the contract;
- payment of the first insurance premium through an account opened in the customer's name with another professional subject to customer due diligence standards that are not less robust than those laid down in the Directive (EU) 2015/849;
- verifying the additional information obtained with independent and reliable sources;
- visiting the customer or the company or contacting the customer or the company via registered letter with acknowledgement of receipt;
  conducting enhanced monitoring of the business relationship by increasing the number and timing of controls applied, and selecting patterns of transactions that need further examination.

Article 27. - Remote entry into a business relationship without any other appropriate guarantee

Where the customer is not physically present or has not been met by, or on behalf of, the professional for identification purposes, so-called "*non face-to-face*" relationship, and the professional has not put in place electronic means of identification, relevant trusted services within the meaning of Regulation (EU) No 910/2014 or any other secure electronic or remote identification process regulated, recognised, approved or accepted by the national authorities concerned, in accordance with point 2) c) of Annex IV of the Law, specific measures shall be applied by the professional to compensate for the potentially higher risk presented by this type of relationship.

Article 28. - Politically Exposed Persons

(1) The appropriate risk management systems, including risk-based procedures, put in place to determine whether the customer or his proxy or beneficial owner is a politically exposed person, as defined in Article 1 (9) to (12) of the Law and required by Article 3-2(4) of the Law, include, among others, seeking relevant information from the customer, referring to publicly available information or having access to electronic databases on politically exposed persons.

(2) Pursuant to Article 3-2(4) of the Law, professionals shall apply a specific acceptance and monitoring procedure with regard to politically exposed persons, requiring enhanced due diligence measures, effective and proportionate to the risk. In addition to those specified in the Law, these measures include among others:

- the systematic involvement of the Compliance Officer in the customer acceptance procedure and the approval from the senior management for establishing the business relationship;
- taking all appropriate measures to document the source and composition of wealth and the source of funds involved in the business relationship or transaction with such persons;
- enhanced ongoing monitoring of the business relationship.

(3) For life or other investment-related insurance policies, professionals shall take reasonable measures to determine whether the beneficiary(ies) of such policy or, where applicable, the beneficial owner of the beneficiary are politically exposed persons. These measures shall be taken at the latest at the time of the payout and, in any event, before the funds are disbursed, or at the time of the assignment, in whole or in part, of the insurance contract.

Where there are higher risks identified, in addition to the due diligence measures provided for in the preceding paragraph and in Article 3 of the Law, professionals shall take the measures set forth in the Article 3-2(4), third subparagraph of the Law.

Article 29. - High-risk countries

(1) According to Article 3-2(2) of the Law, professionals shall pay particular attention, and apply enhanced due diligence measures, to business relationships and operations involving high-risk countries within the meaning of Article 1(30) of the Law.

(2) Professionals shall apply a specific procedure for the acceptance and monitoring of business relationships and operations referred to above, requiring enhanced due diligence measures, which are efficient and proportionate to the risk, in accordance with Article 3-2(2) of the Law. Such measures shall include in particular:

- the systematic involvement of the Compliance Officer in the customer acceptance procedure and the approval of the senior management for establishing the business relationship;
- obtaining additional information on the customer and the beneficial owner(s) and regularly updating customer and beneficial owner identification data;
- obtaining additional information on the source of funds and source of wealth of the customer and beneficial owner(s);
- enhanced ongoing monitoring of the business relationship by increasing the number and timing of controls and selecting patterns of transactions that need further examination (whether transactions from or to the high-risk countries referred to in Article 3-2(2) of the Law).

(3) Professionals shall put in place procedures and systems ensuring the application of the specific measures specified, where applicable, by the CAA in accordance with Article 3(1) of the Grand-Ducal Regulation.

Section 11 - Ongoing due diligence

Article 30. - Detection of complex and unusual operations and transactions

As part of the ongoing due diligence of the professionals provided for in Article 3(2), first subparagraph, point (d) of the Law , professionals shall pay special attention to any activity which they regard as particularly likely, by its nature, to be related to money laundering and terrorist financing and shall, therefore, detect complex or unusually large transactions and all unusual patterns of transactions which have no apparent economic or visible lawful purpose as set forth in Article 3(7) of the Law, such as in the following cases:

- the customer takes out several life insurance contracts with the same characteristics without clear justification;
- the banking institution from which the premiums are to come is established in a different State from that of the customer's domicile without any clear economic justification;
- the payment of the premium is made in cash, by bearer cheque or by transfer of securities or bearer shares;
- the payments and their timing do not correspond to the information provided at the time of subscription or during the life of the contract;
- the contract is assigned or the rights arising from the contract are transferred to a third party without any connection or plausible justification;
- the number of unscheduled withdrawals is significant;
- the payment of the benefits results in disproportionate economic penalties;
- the payment of the benefits shall be split and paid to a number of bank accounts which is higher than the number of beneficiaries;
- there is no apparent economic link between the residence of the recipient of the payment and the State of establishment of the financial institution to which the payment is to be made;
- a change in the beneficiary clause before the contract expiration.

To this end, professionals shall take into account the guidance published on this subject, in particular through the CAA circulars.

Article 31. - States, natural and legal persons, entities and groups subject to restrictive measures in financial matters

(1) The ongoing due diligence requirement referred to in Article 3(2), first subparagraph 1, point (d) of the Law also includes the obligation to put in place measures in order to detect:

- pursuant to Article 8(2) of the Grand-Ducal Regulation and in accordance with the law on the implementation of restrictive measures in financial matters, the States, natural and legal persons, entities and groups involved in a transaction or business relationship that are subject to restrictive measures in financial matters in the context of the fight against the financing of terrorism, including, in particular, those implemented in Luxembourg via European Union regulations directly applicable in national law, or through the adoption of ministerial regulations; and
- the persons, entities or groups involved in a transaction or business relationship that are subject to restrictive measures in financial matters, including, in particular, those implemented in Luxembourg via European Union regulations directly applicable in national law.

The controls shall be carried out on customers, proxies, beneficial owners and beneficiaries of insurance contracts as well as, where applicable, on intermediaries, insured persons, identified objects to which applies the insurance or reinsurance cover, service providers and recipients of compensation.

(2) The professional shall ensure that the filtering tool, whether internal or external to the professional, which is used to carry out said controls is updated without delay whenever there is any change in the official lists issued by the United Nations, the European Union and the competent Luxembourg authorities in the field of financial sanctions. The professional shall also ensure that this filtering tool covers all targeted States, natural and legal persons, entities and groups. If, given the size and nature of its business and customers, the professional does not use a filtering tool, the professional shall carry out the required controls manually against the official lists issued by the United Nations, the European Union and the Luxembourg competent authorities in the field of financial sanctions and shall document these controls.

(3) Where States, natural or legal persons, entities or groups referred to in this Article are detected, and without prejudice to the obligations provided for in Article 5 of the Law and Article 8 of the Grand-Ducal Regulation, the professional shall apply the required restrictive measures and shall inform the competent authorities in the field of financial sanctions without delay. A copy of this communication shall be sent to the CAA at the same time.

Article 32. - Activities requiring particular attention

In the framework of ongoing due diligence, the following activities, among others, require particular attention under Article 3(7) of the Law:

- the activities of customers whose acceptance was subject to a specific examination in accordance with the customer acceptance procedure referred to in Article 9 of the Regulation;
  the contracts having securities or instruments not listed on a regulated market as underlying assets. In such a case, the professional shall take the necessary measures to ascertain the nature and extent of its shareholding in said companies and, if its shareholding allows to effectively exerts a dominant influence or a control over these companies, to put in place adequate procedures to be able to become aware of any transaction envisaged by the latter and to have an overview of their various financial flows.

Article 33. - Review and updating of information

(1) Ongoing due diligence includes the obligation to verify and, where appropriate, to update at a frequency determined by the professional based on its risk assessment, the documents, data or information gathered when complying with the customer due diligence requirements, as provided in particular in Chapter 3 of the Regulation. In accordance with Article 1(4) of the Grand-Ducal Regulation, the frequency of the customer due diligence measures shall not exceed 7 years.

(2) The professional shall be able to demonstrate that the extent and frequency of the customer due diligence measures are appropriate in relation to the risks of money laundering and terrorist financing.

(3) The verification and updating of documents, data and information shall nevertheless always be carried out, without delay, in the following situations qualified as appropriate times in accordance with Article 3(5) of the Law and Article 1(4) of the Grand-Ducal Regulation, regardless of the frequency determined by the professional in accordance with paragraph 1 of this Article:

- a significant operation or transaction takes place, including an unscheduled surrender or an additional payment;
- at the first operation or change in a contract included in a portfolio transfer referred to in Article 12 of the Regulation, regardless of the nature of the operation or change made;
- when the regulation relating the identification of the customers change substantially;
- when the professional realises that it does not have adequate information on an existing customer;
- when the professional is under a legal obligation to contact the customer in order to re-examine any relevant information relating to the beneficial owner(s) or if this obligation falls upon the professional pursuant to the law of 18 December 2015 relating to the Common Reporting Standard (CRD), as amended.

(4) The professional is required to verify whether the conditions enabling to apply simplified customer due diligence measures are still up to date before any operation on contracts.

(5) When reviewing and updating information relating to customers, proxies and beneficial owners, the professional shall take into account in particular information obtained from reliable and independent sources and any negative press concerning them.

(6) Internal follow-up measures shall be adopted for cases where the professional cannot fulfil its obligation to update the documentation within the deadlines fixed pursuant Article 33(1) and (3) of the Regulation.

Section 12 - Performance of customer due diligence by third parties

Article 34. - Conditions for the performance of customer due diligence by third parties

(1) The intervention of a third party within the meaning of Article 3-3 of the Law is subject to the following conditions:

- the professional shall ensure, prior to the intervention of the third party, that the latter meets the status of third party as specified in Article 3-3(1) of the Law. The documentation used to verify the status of the third party shall be kept in accordance with the provisions of the Law and of the Regulation;
- the third party undertakes beforehand, in writing, to fulfil the obligations as set forth in Article 3-3(2) of the Law, notwithstanding any rule on confidentiality or professional secrecy which is applicable to the third party;
- the third party is not established in a high-risk country, except in the case of a branch or majority-owned subsidiary of a professional established in the European Union which fully complies with group-wide procedures.

(2) The responsibility as regards compliance with the provisions of the Law, the Grand-Ducal Regulation and the Regulation shall remain with the professional which relies on the third party.

Article 35. - Outsourcing

(1) The contract between the professional and the third party in the context of an outsourcing relationship (subcontracting) as referred to in Article 3-3(5) of the Law shall include, as a minimum:

- a detailed description of the due diligence measures and procedures to be implemented, in accordance with the Law, the Grand-Ducal Regulation and the Regulation and, in particular, of the information and documents to be requested and verified by the service provider, also called third-party representative;
- the conditions regarding the transmission of information to the professional, including in particular to make immediately available, regardless of confidentiality or professional secrecy rules or any other obstacles, the information gathered while complying with the customer due diligence requirements and the transmission, upon request and without delay, of a copy or originals of the supporting documents obtained in this respect.

(2) The internal procedures of the professional wishing to use third parties in the context of an outsourcing relationship shall include detailed provisions on the procedures to be followed when using a third-party representative (selection process), as well as the relevant criteria determining the choice of the third-party representative. In particular, the professional shall ensure that the third-party representative has the necessary resources to exercise all the outsourced functions.

(2a) A risk assessment in relation to the outsourced functions shall be carried out prior to the conclusion of the outsourcing contract.

Professionals shall carry out a regular control of compliance by the third-party representative with the commitments arising from the contract. Depending on the risk-based approach, the regular control is intended to ensure that the outsourcing professional has the means to test (e.g. by sampling) and to monitor on a regular and ad hoc basis

(e.g. by carrying out on-site visits) the compliance with the obligations incumbent on the service provider. With regard to its customers' data, the professional and the CAA shall have access rights to the third-party representative's systems/databases.

(3) The responsibility as regards compliance with the provisions of the Law, the Grand-Ducal Regulation and the Regulation shall remain entirely with the professional which relies on the third-party representative.

(4) The professional relying on a third-party representative shall ensure that the legal and regulatory provisions applicable in Luxembourg relating to professional secrecy and the protection of personal data are complied with.

Chapter 4 - Adequate internal management requirements

Section 1 - AML/CFT Policies and Procedures

Article 36. - Policies and procedures at the level of the professional

(1) The internal management procedures, policies and control measures as referred to in Article 4(1) of the Law and Article 7(1) of the Grand-Ducal Regulation shall take into account the specificities of the professional such as, among others, its activity, structure, size, organisation and resources.

(2) The professional's AML/CFT policies and procedures shall cover all its professional obligations and shall include, where applicable, among others:

- the customer acceptance policy as set out in Chapter 3, Section 1 of the Regulation;
- the detailed procedures as regards the identification, assessment, supervision, management and mitigation of money laundering or terrorist financing risks as laid down in Chapter 2 of the Regulation. These procedures shall allow to monitor the development of the identified risks, reassessing them on a regular basis and identifying any significant change affecting them or any new risk;
- the procedures relating to the measures to be taken in case of payment of the benefits provided for in Article 23 of the Regulation;
- the specific risk management mechanisms relating to business relationships or operations not requiring the physical presence of the parties without further guarantees having been put in place;
- the measures aimed at preventing the misuse of products or the execution of transactions favouring anonymity pursuant to Article 3-2(6) of the Law, in particular as regards the field of the new technologies;
- the procedure for accepting and monitoring business relationships referred to in Chapter 3, Section 10 of the Regulation;
- the procedures to be followed when using a third party in accordance with Article 3-3 of the Law;
- the procedures to be followed when using a third party in the context of an outsourcing contract as referred to in Article 35 of the Regulation;
- the procedures to be followed in order to monitor the development of business relationships as well as operations executed for customers, in order to, in particular, to detect suspicious transactions;
- the procedures to be followed in case of suspicion or reasonable grounds to suspect money laundering, an associated predicate offence or terrorist financing;
- the hiring procedures and the staff training and awareness-raising programme as laid down in Section 5 of this Chapter;
- the accurate definition of the respective responsibilities of the various AML/CFT functions within the staff with regard to AML/CFT, as well as the appointment of the Compliance Officer and the designation of the Responsible for Compliance;
- the procedure for internal reporting of breaches of professional obligations with regard to the fight against money laundering and terrorist financing by a specific, independent and anonymous channel, as referred to in Article 4(4) of the Law;
- procedures relating to financial restrictive measures.

(3) The AML/CFT policies and procedures shall be monitored and reviewed regularly by the Compliance Officer in order to adapt them, if necessary, to the development of the activities, the customers and the AML/CFT standards and measures. Any change in AML/CFT procedures shall be approved by the management, in accordance with Article 5(1) of the Regulation.

Article 36a. - Group-wide policies and procedures

(1) In order to comply with Article 4-1 of the Law, professionals shall implement a group-wide AML/CFT policy and procedures relating to the fight against money laundering and terrorist financing, including data protection policies, as well as policies and procedures relating to the sharing of information within the group for the purposes of the fight against money laundering and terrorist financing (the "**Group Policies**"). Professionals coordinate the Group Policies and their implementation at group level with their branches and subsidiaries in Luxembourg and abroad. The Group Policies include the policies, controls, procedures and guarantees referred to in Article 4-1(1) of the Law including the policies, controls and procedures established pursuant to the Commission Delegated Regulation (EU) 2019/758 of 31 January 2019 supplementing Directive (EU) 2015/849 of the European Parliament and of the Council as regards technical standards for regulation by specifying the actions that credit and financial institutions shall take as a minimum and the type of additional measures that they shall take to mitigate the risks of money laundering and terrorist financing in certain third countries (the "Delegated Regulation (EU) 2019/758").

(2) Where the law of a country does not allow the implementation of Group Policies, professionals shall take additional measures and ensure that their branches and majority-owned subsidiaries in that third country apply additional measures to effectively handle the risk of money laundering and terrorist financing. In this respect, professionals shall also take into account the provisions set out in the Delegated Regulation (EU) 2019/758 and any other regulations issued in this respect. In particular, they provide for communication procedures to the CAA in the event of prohibition or restriction on the application of certain measures and comply with the communication deadlines provided for in this Regulation.

(3) The Group Policies shall be regularly monitored and reviewed by the Compliance Officer in order to adapt them, if necessary, to the development of the activities, the customers and the AML/CFT standards and measures. Any change of the Group Policies shall be approved by the management in accordance with Article 5(1) of the Regulation.

Section 2 - System for the supervision of business relationships, operations and transactions

Article 37. - System for the supervision of business relationships, operations and transactions

(1) Professionals shall have procedures and put in place control mechanisms enabling them, when accepting customers and monitoring business relationships, to detect, among others:

- the persons as referred to in Articles 28, 29 and 31 of the Regulation;
- the funds from or to States, natural or legal persons, entities or groups as referred to in Article 31 of the Regulation, or high-risk countries as referred to in Article 29 of the Regulation;
- complex or unusual operations and transactions as referred to in Article 30 of the Regulation.

(2) Without prejudice to the provisions of Article 31, such supervisory system shall cover all customers and their operations and shall apply to customers, proxies and beneficial owners as well as beneficiaries of insurance or reinsurance contracts. The system shall take into account the risks identified by the professional as far as it is concerned on the

basis, in particular, of the characteristics of its activity and customers. The system shall be automated, except when the professional can prove that the volume and nature of the customers and the operations to be supervised do not require such automation.

(3) The detection researches carried out with this supervisory system shall be duly documented, including in cases where there are no positive results.

(4) The detected operations or persons, as well as the criteria which led to their detection, shall be recorded in written reports. These reports shall be transmitted to the Compliance Officer for the required purposes, in particular, for compliance with Article 5 of the Law. The professional shall specify in writing the procedure relating to the transmission of written reports to the Compliance Officer, including the required transmission deadlines.

(5) The supervisory system shall enable the professional to take rapidly and, where applicable, automatically, measures in the event of the detection of a suspicious activity or operation. The Compliance Officer is solely competent to decide on the application and extent of these measures and their termination, where applicable, in consultation with the Responsible for Compliance or the management.

(6) An adequate supervisory system includes an appropriate internal organisation to monitor the due date of the payment of the benefits and to identify insurance contracts that are likely to be unclaimed.

(7) The supervisory system shall be subject to an initial validation by the Responsible for Compliance and to a regular control by the Compliance Officer in order to adapt it, where necessary, to the development of the activities, the customers and the AML/CFT standards and measures.

Section 3 - The Responsible for Compliance and the Compliance Officer

Article 38. - The Responsible for Compliance and the Compliance Officer

(1) Pursuant to Article 4(1), fourth subparagraph of the Law, professionals appoint a Responsible for Compliance at the level of the management.

(1a) Pursuant to Article 4(1), second subparagraph, point (a) and Article 5(1) of the Law, and depending on their activities, size and organisation, professionals shall also appoint a Compliance Officer who is responsible for monitoring compliance with AML/CFT obligations.

In the absence of the appointment of a Compliance Officer, the Responsible for Compliance may also be appointed in order to act as Compliance Officer.

(2) The Responsible for Compliance and the Compliance Officer appointed in accordance with the above paragraphs 1 and 1a, and any changes thereto, shall be communicated in advance to the CAA in the form and manner determined by the CAA.

(3) The Responsible for Compliance shall have a sufficient knowledge of the professional's exposure to the risk of money laundering and terrorist financing.

(4) The Compliance Officer shall have the professional experience, the knowledge of the Luxembourg legal and regulatory AML/CFT framework, the appropriate level of hierarchy and the powers within the professional (including the power to access on a timely basis the identification data of customers and other details, information and documents required by the due diligence measures, the transaction documents and the other relevant information), as well as the availability which are necessary for the effective and autonomous exercise of his functions. The Compliance Officer shall ensure, by his regular physical presence in Luxembourg, an on-going effective management of his function.

Article 39. - Delegation of the Compliance Officer's functions

Without prejudice to his responsibility, the Compliance Officer may delegate the exercise of his functions to one or more employees of the professional, provided that the latter meet(s) the criteria set forth in Article 38(4) of the Regulation.

Article 40. - Compliance Officer obligations

(1) The Compliance Officer applies the professional's AML/CFT policy and procedures and has the power to propose, on his own initiative, to the effective management or to the management any necessary or useful measures for this purpose, including the release of the required means.

(2) If the professional is the parent undertaking of a group, the Compliance Officer shall monitor compliance with the professional obligations applicable to branches and subsidiaries in Luxembourg and abroad and, where applicable, in coordination with the compliance officers appointed at the level of the aforementioned branches and subsidiaries. To this end, he shall analyse, among others, the summary of all audit reports and, where applicable, of the *compliance* function of these companies that the professional shall obtain.

(3) If the professional is part of a group and is not the parent undertaking of this group, the Compliance Officer shall ensure that the professional complies with the policies, procedures and measures which are put in place at group level concerning, among others, data protection and the sharing of information within the group for the purposes of the fight against money laundering and terrorist financing, in accordance with the legal provisions in force in Luxembourg. The Compliance Officer also monitors compliance with the professional obligations applicable to branches and majority-owned subsidiaries. To this end, he shall analyse, among others, the summary of all audit reports and, where applicable, of the *compliance* function of these companies that the professional shall obtain.

(4) He shall put in place and shall ensure the realisation of the training programme and the raising staff awareness as referred to in Article 44(2) of the Regulation.

(5) The Compliance Officer is the privileged contact person for the AML/CFT competent authorities as regards AML/CFT related matters. He is also in charge of the transmission of any information or declaration to these authorities.

(6) The compliance with the AML/CFT policy shall be subject to regular controls and verifications, at a frequency determined according to the money laundering and terrorist financing risks to which the professional is exposed. The Compliance Officer shall report in writing on a regular basis and, if necessary, on an ad hoc basis to the Responsible for Compliance and to the management. These reports deal with the follow-up of the recommendations, problems, shortcomings and irregularities identified in the past as well as the new problems, shortcomings and irregularities identified. Each report specifies the risks related thereto as well as their seriousness (measuring the impact) and proposes corrective measures, as well as, in general, the position of the persons concerned. These reports shall allow assessing the scale of money laundering or terrorist financing suspicions which were detected, and expressing a judgment on the adequacy of the AML/CFT policy and the cooperation of the professional's departments as regards AML/CFT. In this respect, the Compliance Officer shall take into account, among others, the written reports sent to him pursuant to Article 37(4) of the Regulation.

(7) The Compliance Officer shall prepare, at least once a year, a summary report on his activities and functioning (including recommendations, problems, shortcomings and major irregularities). This report shall be transmitted to the Responsible for Compliance and submitted for approval to the management and, where applicable, to its specialised committees. The summary report shall be made available to the CAA upon simple request, starting six months after the end of the financial year.

Article 41. - Accumulation of functions

(1) The accumulation of the function of Compliance Officer with one or more other functions shall not impede the independence, objectivity and decision-making autonomy

of the Compliance Officer. His workload shall be adapted so that the efficiency of the AML/CFT framework is not compromised.

(2) The accumulation of the function of the Responsible for Compliance with one or more other functions shall not impede his independence and his objectivity.

Section 4 - Internal audit control

Article 42. - Internal audit control

(1) The control of the AML/CFT policy and procedures shall be an integral part of the missions of the of the internal audit function of the professional, insofar as the latter has such a function.

(2) The internal audit function shall independently test and assess the procedures, policies, and control measures and report to the management (or its specialised committees) by providing them, at least once a year, with a summary report on the compliance with AML/CFT policies and procedures. It shall show due diligence by ensuring that its recommendations or corrective measures are followed up.

Section 5 - Recruitment, training and awareness-raising of the staff

Article 43. - Recruitment procedures of the staff

Professionals shall set up recruitment procedures for all the staff and particularly for the Compliance Officer and the Responsible for Compliance aimed at ensuring that each staff member meets the criteria of adequate professional standing and experience according to the risks of money laundering and terrorist financing related to the duties and functions to be carried out. In particular, for the recruitment of members of the management as well as for the Compliance Officer and the Responsible for Compliance, information shall be obtained on the possible judicial record of the persons concerned, by requiring, among others, an extract of the police record or an equivalent document from the person concerned.

Article 44. - Training and awareness-raising of the staff

(1) Without prejudice to the training requirements provided in Article 39 of the Regulation of the Commissariat aux Assurances No 19/01 of 26 February 2019 on insurance and reinsurance distribution, the ongoing training and awareness-raising measures taken by the professional pursuant to Article 4(2) of the Law shall cover all the staff, including the members of the management and the effective management. These measures shall be adapted to the needs of the staff.

(2) Every professional is required to have an ongoing training and awareness-raising programme for the whole staff which observes high qualitative criteria and whose content and timetable take into account the specific needs of the professional. This programme, as well its realisation, shall be documented in writing. The programme shall take account the developments in money laundering and terrorist financing techniques and shall be adapted when relevant legal or regulatory requirements change.

The training and awareness-raising programme of the staff shall include, inter alia:

- for the newly hired staff members, as soon as they are hired, participation in internal or external basic training, making them aware of the professional's AML/CFT policy as well as of the relevant legal and regulatory requirements;
- for the whole staff, internal or external training courses providing clear explanations of the legal and regulatory AML/CFT requirements, including professional obligations, applicable data protection requirements and the professional's AML/CFT policy, in particular if this policy has been amended;

- for members of the staff who are in direct contact with customers or whose tasks expose them to the risk of being confronted with attempts at money laundering or terrorist financing or whose tasks consist directly or indirectly in AML/CFT, in addition to the training provided to all staff, ongoing training in order to keep them informed of new developments, including information on money laundering and terrorist financing techniques, methods and trends, and to help them recognise operations that may be related to money laundering or terrorist financing and to instruct them on how to proceed in such cases;
- regular information meetings for the staff concerned in order to keep them informed of developments in money laundering and terrorist financing techniques, methods and trends, as well as the preventive rules and procedures to be followed in this field;
- the appointment of one or more contact person(s) for the staff, who is/are competent and available to answer any question relating to money laundering or terrorist financing, and which may concern, in particular, all the aspects of the laws and obligations regarding AML/CFT, the internal procedures, the customer due diligence requirements and the report of suspicious transaction;
- the periodic dissemination of AML/CFT documentation, which includes, among others, examples of money laundering or terrorist financing operations.

(3) Professionals shall take the necessary measures to ensure that the CAA has access to internal and external training materials, regardless of the format chosen for such training.

(4) In the event that professionals take over a training and awareness-raising programme developed abroad, they are required to adapt this programme to the legal and regulatory framework applicable in Luxembourg and to their specific activities.

Chapter 5 - Cooperation requirements with the authorities

Article 45. - Requirements and methods of cooperation

(1) Pursuant to Article 4(3) and Article 5(1) of the Law and Article 8(3) and (4) of the Grand-Ducal Regulation, professionals shall be able to answer quickly and comprehensively all information requests from the Luxembourg authorities in charge of AML/CFT, and, in particular, those seeking to determine whether they are or were in business relationships or whether they do or did carry out operations in relation to specific persons, including those referred to in Articles 29 and 31 of the Regulation. This cooperation requirement does not end with the termination of the business relationship or the operation.

(2) In order to be able to comply with the requirements of the previous paragraph, professionals shall take the necessary steps to register with the IT tool set up by the FIU to enable professionals to report suspicious transactions.

Article 46. - Extent of the cooperation requirements, implementation and follow-up

(1) The requirement to inform, without delay, the FIU, as provided for in Article 5(1), point (a) of the Law, also covers the case where the professional came into contact with a natural or legal person or legal arrangement without entering into a business relationship or carrying out an operation, provided that there are suspicions or reasonable grounds to suspect money laundering, an associated predicate offence or terrorist financing.

(2) The professional shall equip itself with the necessary means with respect to procedures and organisation of the Compliance Officer's function allowing to carry out an analysis of the reports transmitted to him and to determine whether a fact or transaction shall be reported to the FIU in accordance with Article 5(1), point (a) of the Law. The procedures shall set out the conditions, deadlines and steps for the submission of reports by the

customer relationship manager to the Compliance Officer. The analysis and the resulting decision shall be recorded in writing and made available to the competent authorities.

(3) Without prejudice to the obligations laid down in Article 5(3) of the Law, a business relationship which has been the subject of a suspicious transaction report to the FIU, shall be monitored by the professional with enhanced due diligence and, where applicable, in line with the instructions of the FIU. In the event of new indications, professionals shall file an additional suspicious transaction report.

Chapter 6 - Audit by the *réviseur d'entreprises agréé*

Article 47. - Audit by the réviseur d'entreprises agréé *(approved statutory auditor)*

(1) The audit of the insurance or reinsurance undertaking's annual accounts by the *réviseur d'entreprises agréé* (approved statutory auditor) shall also include the compliance with the legal and regulatory requirements and provisions regarding AML/CFT. In this respect, the *réviseur d'entreprises agréé* (approved statutory auditor) shall, among others, carry out sampling tests, the methodology and the results of which shall be described in a special report.

(2) The special report of the *réviseur d'entreprises agréé* (approved statutory auditor) shall include inter alia:

- the description of the AML/CFT policy set up by the undertaking in order to prevent money laundering and terrorist financing, the verification of its compliance with the provisions of Articles 301 and 302 of the law on the insurance sector, the Law, the Grand-Ducal Regulation, the CAA regulations and the circular letters on AML/CFT, and the control of their sound application;
- the assessment of the undertaking's analysis of money laundering and terrorist financing risks to which it is exposed. The *réviseur d'entreprises agréé* shall verify if the procedures, infrastructures and controls which are put in place, as well as the scope of the AML/CFT measures taken, are appropriate considering the AML/CFT risks to which the undertaking is exposed, in particular through its activities, the nature of its customers and the products and services offered;
- a declaration on the realisation of a regular audit of the undertaking's AML/CFT policy by the internal audit function and the Compliance Officer;
- the verification of the training and awareness-raising measures for the staff as regards money laundering and terrorist financing, and, in particular, with respect to the detection of money laundering and terrorist financing operations;
- a historical statistic concerning the detected suspicious transactions, providing information on the number of suspicious transaction reports made by the undertaking to the FIU as well as the total amount of funds involved.

(3) The annual audit shall encompass undertaking's branches and majority-owned subsidiaries abroad. It shall cover, among others, the compliance by branches and majority-owned subsidiaries with the applicable provisions as regards the prevention of money laundering and terrorist financing and shall include in this respect:

- an analysis of the risks incurred by branches and majority-owned subsidiaries with regard to money laundering and terrorist financing;
- a description and assessment of risk management in branches and majority-owned subsidiaries;
  the verification of the implementation and compliance with the undertaking's AML/CFT policy in branches or majority-owned subsidiaries.

Article 48. - Repealing provisions

The regulation of the Commissariat aux Assurances No. 13/01 of 23 December 2013, as amended, on the fight against money laundering and terrorist financing is repealed.

Article 49. - Entry into force

The Regulation enters into force the day after its publication in the Official Journal of the Gran-Duchy of Luxembourg.

Luxembourg, 30 July 2020

COMMISSARIAT AUX ASSURANCES

Claude Wirion	Annick Felten	Yves BAUSTERT
Director	Member of the Directorate	Member of the Directorate